

REMARKS**Summary of the Office Action**

Claims 1, 12 14-15, 17, 29 and 31-33 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Murayama et al. (U.S. Patent No. 4,128,708).

Claims 2-5, 6, 13, 16, 18-23, 30 and 34 stand rejected under 35 U.S.C. 103 (a) as being unpatentable over Murayama et al. in view of Honda et al. (U.S. Patent No. 5,296,884).

Claims 7-11 and 24-28 stand objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims.

Summary of Response to the Office Action

Applicants cancel claims 1 and 17 from further consideration, amend dependent claims 2, 7, 12, 19, 24, and 29 into independent form to further define the invention, and add new claims 35-43. Accordingly, claims 2-16, and 18-43 are presently pending.

All Claims Define Allowable Subject Matter

In the Office Action, claims 1, 12 14-15, 17, 29 and 31-33 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Murayama et al., and claims 2-5, 6, 13, 16, 18-23, 30 and 34 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Murayama et al. in view of Honda et al. Applicant respectfully traverses the rejections for at least the following reasons.

Regarding rejection of claims 1 and 17 under 35 U.S.C. § 102(b), Applicant respectfully submits that claims 1 and 17 have been cancelled from further consideration. Accordingly, Applicant respectfully requests that rejection of claims 1 and 17 under 35 U.S.C. § 102(b) be withdrawn. Furthermore, Applicant respectfully submits that dependent claims 2, 7, 12, 19, 24, and 29 are rewritten into independent form. Accordingly, since claims 8-11 and 25-28 now

depend from the amended independent claims 7 and 24 which include all of the limitations of the base claims and any intervening claims, and claims 8-11 and 25-28 are indicated to contain allowable subject matter, Applicant respectfully submits that claims 7-11 and 24-28 are allowed.

Regarding rejection of claims 12 and 29 under 35 U.S.C. § 102(b), Applicant respectfully submits that independent claim 12, as amended, recite an image processing method including in part, “assuming step of the photographing scene is a step of assuming the photographing scene from contents of said message information or a combination with said digital image data and said contents of said message information.” Similarly, independent claim 29, as amended, recites an image processing apparatus including in part, “assuming device assumes the photographing scene from contents of said message information or a combination with said digital image data and said contents of said message information.”

In contrast to the Applicant’s claimed invention, the Office Action alleges that Murayama et al. discloses at col. 5, lines 43-50, the camera information of the photographing scene including message information (a bar code data as the light source data 42) relating to the photographing scene and a step of assuming (reading by bar code reader) the photographing scene from contents of said message information. Applicant respectfully disagrees. Applicant respectfully submits that bar code 42 disclosed in Murayama et al. is an intermediate data obtained from the light source data, which is used to manipulate the scheme of color while the instant image is being reproduced. On the other hand, the message information recited in both claims 12 and 29 are used to assist extracting the main feature of the instant image, thereby determining the optimal image processing. The extracted main feature further initiates separate image processing based on light source of the instant image.

As pointed out in MPEP § 2131, “[t]o anticipate a claim, the reference must teach every element of the claim.” Thus, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.”

Verdegaal Bros. v. Union Oil Co. of California, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987).

Accordingly, Applicant respectfully submits that Murayama et al. fails to teach or suggest every element of at least independent claims 12 and 29, then Murayama et al. fails to anticipate at least independent claims 12 and 29, and hence dependent claims 13, 14, 18, 30-31, and 33-34.

Regarding the rejection of claims 2 and 19 under 35 U.S.C. § 103(a), Applicant respectfully submits that independent claim 2, as amended, recite an image processing method including in part, “assuming step of the photographing scene is a step of specifying said subject in said photographing scene or assuming a photographing situation when said subject is photographed from said camera information and said supplementary information or a combination with said digital image data, said camera information and said supplementary information.” Similarly, independent claim 19, as amended recites, an image processing apparatus including in part, “assuming device specifies said subject in said photographing scene or assumes a photographing situation when said subject is photographed from said camera information and said supplementary information or a combination with said digital image data, said camera information and said supplementary information.” Applicant respectfully submits at least these features recited in amended independent claims 2 and 19 are neither taught nor suggested by Murayama et al. and Honda et al., whether taken singly or combined.

In contrast to Applicant’s claimed invention, Murayama et al. teaches at col. 5, lines 44-60, a method of determining an intermediate data to identify the light source from the instant photograph, thereby appropriate subsequent color correction is performed during the

reproduction of the image. In addition, Honda et al. teaches at col. 3, line 65- col. 4, line 8, that place data and date/time data associated with the instant photographed image is simply interposed on the photographed image or recorded as a code separately from the photographed image, thereby recorded in a recording medium. Moreover, Honda et al. teaches at col. 6, lines 12-21, place data and date/time data are recorded on the photographic film. However, Honda et al. is completely silent about using the acquired place data and date/time data to select an optimal image processing method (i.e. color correction) to reproduce the instant image.

Applicant respectfully notes that MPEP 2143.01 instructs that “[o]bviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention, where there is some teaching, suggestion or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art.” Thus, Applicant respectfully asserts that the Office Action has not provided proper motivation for one of ordinary skill in the art to modify the teachings of Murayama et al. with the teachings of Honda et al. to achieve the invention of independent claims 2 and 19, and hence dependent claims 3-6, 15-16, 20-23, and 32.

For at least the above reasons, Applicant respectfully submits that claims 1-34 are neither taught nor suggested by the applied prior art reference. Applicant respectfully asserts that the rejections under 35 U.S.C. §§ 102 (b) and 103(a) should be withdrawn because the above-discussed novel combinations of features are neither taught nor suggested by the applied reference.

New Claims 35-43

Applicant add new claims 35 – 43 to further define the subject matter of the current invention. Thus, Applicant respectfully requests consideration of newly added claims 35-43.

CONCLUSION

In view of the foregoing remarks, Applicant respectfully requests reconsideration of this application, withdrawal of all rejections, and the timely allowance of all pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicant's undersigned representative to expedite prosecution.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.R.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully Submitted,

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